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## REMARKS

This Amendment is submitted in response to the Office Action dated June 5, 2006 and the Advisory Action dated August 16, 2006. In the Office Action, the Patent Office issued a non-statutory double patenting rejection on the ground of non-statutory obviousness type double patenting over claims 1-8 of co-pending Application No. 10/680,807. Moreover, the Patent Office rejected Claims 1-18 under 35 U.S.C. §103(a) as being unpatentable over *Riedel. (U.S. Patent No.: 389,975)*.

By the present amendment, Applicant submits herewith a terminal disclaimer to overcome the non-statutory obviousness type double patenting indicated by the examiner in the last Office Action mailed by the Patent Office. Additionally, applicant has amended Claims 1 and 9. Applicant submits that the terminal disclaimer and the amendments overcome the double patenting rejection and the rejections raised by the Patent Office. Notice to that effect is requested.

The Patent Office rejected Claims 1-8 on the grounds of non-statutory obviousness-type double patenting as being unpatentable over Claims 1-8 of co-pending Application No.: 10/680,807. The Patent Office states that "although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims fully encompass those of Application 10/680,807. The Patent Office states that a timely filed terminal disclaimer in compliance with 37 CFR §1.321(c) or 1.321(d) may be used to overcome an provisional rejection based on a non-statutory double patenting ground. Applicant submits herewith a terminal disclaimer in accordance with 37 CFR §1.321(c) to overcome the double patenting rejection. Applicant respectfully submits that the terminal disclaimer comply with 37 C.F.R. §1.321(c), and the rejection has been overcome. Notice to that effect is requested.

The Patent Office rejected Claims 1-18 under 35 U.S.C. §103(a) as being unpatentable over *Riedel*. The Patent Office alleges that *Riedel* discloses nearly all that is recited in the claims since it teaches for a wrapper made of tobacco to be wrapped around a rubber tube and then for a paper wrapper to be wrapped around the tobacco paper. The Patent Office states that although Riedel may not specifically state that the product also includes a container means for shipping the above items, it would have been obvious to one having ordinary skill in the art at the time of

the invention to have provided such a container since the device, as well as any commercial product, has to be delivered in some type of receptacle.

*Riedel* teaches a tobacco product that is formed taking a tobacco wrapper and forming the wrapper by rolling or lapping it around the soft surfaced core-body to form a tube and around the so formed tube while it is on said core body. Riedel requires drying the tobacco wrapper while in the temporary wrapper, and after the drying, Riedel produces the contraction of the core body and withdraw it, leaving the tobacco wrapper within the temporary paper wrapper.

Amended Claim 1 of the present invention requires a product for wrapping and packaging a cigar paper. The product comprises a cigar tobacco paper and an object used to keep the tobacco paper in a shape.

Moreover, amended Claim 1 requires an enveloping means wherein said enveloping means encloses the tobacco paper and further wherein the enveloping means protects said cigar tobacco paper during transit to the end consumer and maintains the moisture of the cigar tobacco paper whereby the end consumer may unwrap the enveloping means and the cigar tobacco paper, discard the enveloping means and utilize the tobacco paper with tobacco filler.

Additionally, amended Claim 1 requires a container means for packaging the cigar tobacco paper for sending same to the consumer.

Similarly, Amended Claim 9 requires a method for packaging a cigar tobacco paper to be used by a consumer, the method comprising the steps of: providing a cigar tobacco paper to be used by the consumer to fill with tobacco filler; providing an object for placement on top of the cigar tobacco paper and using said object to assist in rolling the tobacco paper to result in said paper being in rolled form and maintenance of the moisture of the cigar tobacco paper, said object functioning to hold the shape of the tobacco paper in said rolled form; and providing an enveloping means to enclose the tobacco paper.

*Riedel* does not teach or suggest an enveloping means wherein the encloses the tobacco paper and further wherein the enveloping means protects said cigar tobacco paper during transit to the end consumer and maintains the moisture of the cigar tobacco paper whereby the end consumer may unwrap the enveloping means and the cigar tobacco paper, discard the enveloping means and utilize the tobacco paper with tobacco filler. Moreover, *Riedel* does not teach or

suggest the use of cigar tobacco paper used by the end user to roll his or her own cigar. On the contrary, *Riedel* teaches the use of cigarette tobacco paper having a unique application and use.

Additionally, *Riedel* requires that the tobacco paper be dried prior to utilization by the consumer. This completely contrary to the desired effect of the present invention.

*Riedel* taken singly, does not teach or suggest a the apparatus or method disclosed by the applicant. More specifically, *Riedel* does not teach or suggest an enveloping means wherein said enveloping means encloses the tobacco paper and further wherein the enveloping means protects said cigar tobacco paper during transit and maintains the moisture of the cigar tobacco paper to the end consumer whereby the end consumer may unwrap the enveloping means and the cigar tobacco paper, discard the enveloping means and utilize the tobacco paper with tobacco filler as required by Claim 1 and Claim 9.

Further, the Patent Office provided no teaching as to why one having ordinary skill in the art would have been led to modify *Riedel* to create Applicant's invention. Since the Patent Office failed to establish a *prima facie* case of obviousness, Applicant believes that the rejection of Claims 1-20 under 35 U.S.C. §103(a) should be withdrawn. Notice to that effect is requested.

It is submitted that the question under §103 is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of the teaching of the reference, would have been obvious to one of ordinary skill in the art at the time the invention was made. Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

It is insufficient that the art disclosed components of Applicants' invention. A teaching, suggestion, or incentive must exist to make the combination made by Applicants. Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1988).

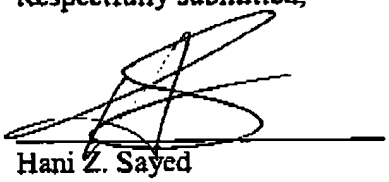
In view of the foregoing remarks and amendments, the rejection of Claims 2, 5-6, 8 and 15-17 under 35 U.S.C. §103(a) as being unpatentable over *Sinclair, Jr.* has been overcome and should be withdrawn. Notice to that effect is requested.

Claims 2-8 depend from Claim 1; and Claims 11-18 depend from Claim 9. These claims are further believed allowable over *Riedel* for the same reasons set forth with respect to independent Claims 1 and 9 since each sets forth additional novel components and steps of Applicant's cigar tobacco paper and method for packaging the same.

**Request For Allowance**

In view of the foregoing remarks, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is now in condition for allowance. If any outstanding issues remain, Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,



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